

AMENDED IN ASSEMBLY MAY 20, 2013

AMENDED IN ASSEMBLY MAY 6, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1220

Introduced by Assembly Member Skinner

February 22, 2013

An act to amend Section 1785.20 of, and to add Section 1785.10.1 to, the Civil Code, relating to consumer credit.

LEGISLATIVE COUNSEL'S DIGEST

AB 1220, as amended, Skinner. Consumer credit reporting: adverse action.

Existing law requires a consumer credit reporting agency, upon request and proper identification of any consumer, to allow the consumer to visually inspect all files maintained regarding that consumer at the time of the request. Existing law additionally grants a consumer the right to request and receive a written copy of the file. Existing federal law prohibits a consumer credit reporting agency from prohibiting a user of a consumer credit report furnished by the agency from disclosing the contents of the report to the consumer if adverse action has been taken against the consumer by the user based on the report.

This bill would make it unlawful for a consumer credit reporting agency to prohibit, or to dissuade or attempt to dissuade, a user of a consumer credit report furnished by the credit reporting agency from providing a copy of the consumer's credit report to the consumer, upon

the consumer's request, if the user has taken adverse action against the consumer based upon the report. ~~On and after July 1, 2014, the bill would require that a contract between a credit reporting agency and a user of a consumer credit report include a statement that federal law prohibits a consumer credit reporting agency from prohibiting a user of consumer credit reports from disclosing a copy or the contents of the report to the user and allows a user to disclose this information to a consumer, as specified. The bill would authorize the Attorney General, among others, to bring a civil action, for a civil penalty not to exceed \$5,000, against any credit reporting agency for a violation of these provisions.~~

~~Under existing law, if any person takes any adverse action with respect to any consumer, and the adverse action is based on any information contained in a consumer credit report, the person is required to, among other things, provide written notice of the adverse action to the consumer.~~

~~This bill would require that notice to include a specified statement advising the consumer of his or her right to request the contents of, or a copy of, the report from the credit reporting agency.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1785.10.1 is added to the Civil Code, to
2 read:
3 1785.10.1. (a) It is unlawful for a consumer credit reporting
4 agency to prohibit in any manner, including, but not limited to, in
5 the terms of a contract enforceable in the state, or to dissuade or
6 attempt to dissuade, a user of a consumer credit report furnished
7 by the credit reporting agency from providing a copy of the
8 consumer's credit report to the consumer, upon the consumer's
9 request, if the user has taken adverse action against the consumer
10 based in whole or in part upon information in the report. ~~On and~~
11 ~~after July 1, 2014, any new or renewed contract between a credit~~
12 ~~reporting agency and a user of a consumer credit report for the~~
13 ~~provision of consumer credit reports shall include a statement that~~
14 ~~federal law prohibits a consumer credit reporting agency from~~
15 ~~prohibiting a user of consumer credit reports from disclosing a~~
16 ~~copy or the contents of the report to the consumer if adverse action~~

1 has been taken by the user based in whole or in part on the report,
2 and allows a user of consumer credit reports to disclose the report,
3 or the contents of the report, to the consumer under those
4 circumstances.

5 (b) The Attorney General, any district attorney or city attorney,
6 or a city prosecutor in any city or city and county having a full-time
7 city prosecutor, may bring a civil action in any court of competent
8 jurisdiction against any credit reporting agency violating this
9 section for a civil penalty not to exceed five thousand dollars
10 (\$5,000) which may be assessed and recovered in a civil action
11 brought in the name of the people of the State of California.

12 SEC. 2. ~~Section 1785.20 of the Civil Code is amended to read:~~

13 ~~1785.20. (a) If any person takes any adverse action with respect~~
14 ~~to any consumer, and the adverse action is based, in whole or in~~
15 ~~part, on any information contained in a consumer credit report,~~
16 ~~that person shall do all of the following:~~

17 (1) ~~Provide written notice of the adverse action to the consumer~~
18 ~~that includes the following statement:~~

19
20 ~~“We have taken adverse action on your application and our~~
21 ~~decision is based in whole or in part upon your credit report. You~~
22 ~~have a right to request from us the contents of the report, or a copy~~
23 ~~of the credit report itself, that we received from the consumer credit~~
24 ~~reporting agency. Neither state nor federal law prevents you from~~
25 ~~obtaining the contents of your credit report that we received about~~
26 ~~you, or a copy of the credit report itself, from us under those~~
27 ~~circumstances.”~~

28
29 (2) ~~Provide the consumer with the name, address, and telephone~~
30 ~~number of the consumer credit reporting agency which furnished~~
31 ~~the report to the person.~~

32 (3) ~~Provide a statement that the credit grantor’s decision to take~~
33 ~~adverse action was based in whole or in part upon information~~
34 ~~contained in a consumer credit report.~~

35 (4) ~~Provide the consumer with a written notice of the following~~
36 ~~rights of the consumer:~~

37 (A) ~~The right of the consumer to obtain within 60 days a free~~
38 ~~copy of the consumer’s consumer credit report from the consumer~~
39 ~~credit reporting agency identified pursuant to paragraph (2) and~~

1 from any other consumer credit reporting agency which compiles
2 and maintains files on consumers on a nationwide basis.

3 (B) The right of the consumer under Section 1785.16 to dispute
4 the accuracy or completeness of any information in a consumer
5 credit report furnished by the consumer credit reporting agency.

6 (b) ~~Whenever credit or insurance for personal, family, or~~
7 ~~household purposes involving a consumer is denied or the charge~~
8 ~~for such credit is increased either wholly or in part because of~~
9 ~~information obtained from a person other than a consumer credit~~
10 ~~reporting agency bearing upon consumer's credit worthiness or~~
11 ~~credit standing, the user of that information shall, within a~~
12 ~~reasonable period of time, and upon the consumer's written request~~
13 ~~for the reasons for that adverse action received within 60 days after~~
14 ~~learning of the adverse action, disclose the nature and substance~~
15 ~~of the information to the consumer. The user of the information~~
16 ~~shall clearly and accurately disclose to the consumer his or her~~
17 ~~right to make such a written request at the time the adverse action~~
18 ~~is communicated to the consumer.~~

19 (c) ~~No person shall be held liable for any violation of this section~~
20 ~~if he or she shows by a preponderance of the evidence that at the~~
21 ~~time of the alleged violation he or she maintained reasonable~~
22 ~~procedures to assure compliance with this section.~~

23 (d) ~~Nothing in this chapter shall excuse compliance with the~~
24 ~~requirements of Section 1787.2.~~